

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

ODESSA HUNTER,

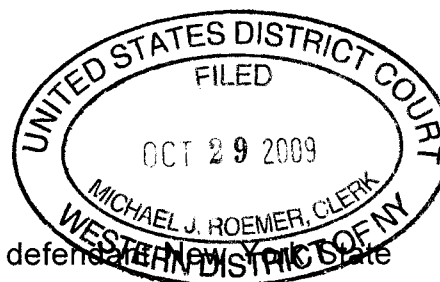
Plaintiff,

-v-

NEW YORK STATE DEPARTMENT OF
CORRECTIONAL SERVICES,

Defendant.

DECISION AND ORDER
09-CV-0567S



Plaintiff filed this employment discrimination against defendant New York State Department of Correctional Services *pro se* and the Court granted plaintiff permission to proceed *in forma pauperis* and directed the Clerk of the Court to cause the summons and complaint to be served on defendant. See 28 U.S.C. § 1915(d); Fed.R.Civ.P. 4(c)(3). Upon receipt from plaintiff of a completed summons and Marshal Process Receipt and Return Form, the Clerk of the Court, on July 23, 2009, issued a summons and forwarded the summons, complaint and Marshal Forms to the Marshals Service for service on defendant.

To date, there has been no appearance by defendant and there is no proof as to whether defendant received and acknowledged receipt of the summons and complaint. See N.Y. C.P.L.R. § 312-a(a)-(b). Once a plaintiff is granted permission to proceed *in forma pauperis*, typically the responsibility for effecting service of the summons and complaint shifts from the plaintiff to the court. See 28 U.S.C. § 1915(d); *Wright v. Lewis*, 76 F.3d 57, 59 (2d Cir. 1996); see also *Rivera v. Pataki*, 2005 U.S. Dist. LEXIS 2747, at ** 55-56 (S.D.N.Y. Feb. 7, 2005) ("Once plaintiff provided the Marshal's Service with the


information required to serve his complaint, he was absolved of further responsibility for service.”)

Accordingly, the time in which plaintiff must effect service of the summons and complaint is hereby extended 120 days from entry of this Order, and the Clerk of the Court is directed to cause the United States Marshals Service to serve the summons and complaint on defendant.¹

The Clerk of the Court is directed to forward a copy of this Order and a copy of the complaint to the Assistant Attorney General in Charge, New York State Attorney General's Office, Buffalo Regional Office, Main Place Tower, 350 Main Street, Suite 300A, Buffalo, New York 14202, in order that said office can assist the Court in confirming service of the summons and complaint on defendant, which, in all likelihood, will be represented by said office in this matter.

SO ORDERED.

Dated: Oct. 26, 2009
Rochester, New York



CHARLES J. SIRAGUSA
United States District Judge

¹Pursuant to the Court's general procedures regarding service of the summons and complaint in cases where the plaintiff is *pro se* and proceeding *in forma pauperis*, if a summons and Marshal Forms are not submitted with the complaint, the Court forwards a notice to plaintiff informing her that she needs to complete a summons and Marshal Forms and return them to the Clerk's Office for issuance of the summons and forwarding of the summons, complaint and Marshal Forms to the Marshals Service for service on defendant. Upon her receipt of the Notice following entry of this Order, plaintiff is advised to complete the summons and Marshal Form as she did previously and return them to the Court for service on defendant.